

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
Implementation of the	)	
Telecommunications Act of 1996	)	
	)	
Telecommunications Carriers' Use	)	CC Docket No. 96-115
of	)	
Customer Proprietary Network	)	
Information and Other Customer	)	
Information	)	
	)	RM-11277
Petition for Rulemaking to	)	
Enhance Security and	)	
Authentication Standards for	)	
Access to Customer Proprietary	)	
Network Information	)	

**Comments of the Public Utility Commission of Texas**

On February 14, 2006, the Federal Communications Commission (FCC) released a *Notice of Proposed Rulemaking (NPRM) – RM-11277* relating to Telecommunications Carriers' Use of Customer Proprietary Network Information (CPNI), CC Docket No. 96-115. This NPRM is in response to a petition filed by Electronic Privacy Information Center (EPIC) expressing concerns about the sufficiency of carrier practices related to CPNI. As pointed out by EPIC, a number websites advertise the sale of personal telephone records for a price. Specifically, EPIC notes data brokers advertise the availability of cell phone records, which include calls to and/or from a particular cell phone number, the duration of such calls, and may even

include the physical location of the cell phone. EPIC contends, in addition to selling cell phone records, many data brokers also claim to provide calling records for landline and voice over internet protocol, as well as non-published numbers and in many cases data brokers represent themselves to be able to provide this information within fairly quick timeframes. The *NPRM* seeks comment on a number of issues regarding the nature and scope of the problem identified by EPIC. With the exception of whether the FCC's existing "opt-out" regime sufficiently protects the privacy of CPNI in the context of CPNI disclosed to telecommunication carriers' joint venture partners and independent contracts, the Public Utility Commission of Texas (Texas PUC) has not conducted proceedings that would establish a public record regarding any of the other CPNI related issues for which the FCC requested comment. The Texas PUC, having been given general regulatory authority over public utilities within our jurisdiction in Texas, hereby files these brief comments to supplement the record in this proceeding. The Texas PUC notes on March 13, 2002, it filed comments in response to the FCC's *Clarification Order and Second Further Notice of Proposed Rulemaking (Order and FNPRM)* relating to Telecommunications Carriers Use of Customer Proprietary Network Information (CPNI), CC docket No. 96-115 and 96-145 (FCC 01-24) in which the Texas PUC stated its support of the comments filed in that matter by the National Association of Regulatory Utility Commissioners (NARUC) and by the National Association of

Attorneys General (NAAG). The Texas PUC continues to encourage the FCC to require carriers to seek customer approval through an “opt-in” approach prior to allowing carriers to share CPNI.

On February 8, 2002, the Texas PUC opened a project to address the uses of CPNI by carriers in Texas. A copy of the notice and questions posed to carriers in this proceeding is included as Attachment A.<sup>1</sup> Interested parties were asked to file responses to questions relating to company policies and practices regarding the uses of CPNI and the processes each company intends to follow when handling customers who choose to “opt-out.” A copy of these comments is included as Attachment B.<sup>2</sup>

During the open meeting on February 21, 2002, the Texas PUC heard from representatives of companies who have chosen the “opt-out” mechanism to gain customer approval for the use of CPNI. Representatives from Southwestern Bell Telephone (SWBT), Verizon Southwest, and Valor Telecommunications provided responses to questions posed by the Texas Commissioners regarding the types of information each company is collecting and sharing with affiliated companies, how that information is being utilized for marketing purposes, corporate policies regarding CPNI and privacy, and additional information about the company’s “opt-out” notice and procedures. A copy of the transcript from this proceeding is included as Attachment C.

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<sup>1</sup> *Proceeding to Identify Uses of Customer Proprietary Network Information*, PUC Docket No. 25432, February 11, 2002.

<sup>2</sup> See Attachment B for a copy of comments filed in Docket No. 25432.

The Texas PUC public policy goals regarding telecommunications privacy are intended to achieve a balance between the promotion of competition among telecommunications carriers and protecting a customer's right to retain control over their personal information. The Texas PUC believes the adoption of the "opt-in" methodology would ensure competition while balancing the protection of an individual's right to privacy. The Texas PUC continues to believe that prior written authorization from a customer should be required before accessing, using, or releasing that customer's CPNI. We trust this is the policy objective implicit in the language of Section 222 of the Federal Telecommunications Act of 1996, and we support the FCC in this important *FNPRM* to implement the appropriate standards to carry out this policy.

## Conclusion

We appreciate the opportunity to offer our comments in this proceeding. The Texas PUC has consistently supported a telecommunications customer privacy policy that allows the customer to make informed decisions regarding the use and dissemination of their CPNI. We invite the Commission to build on the analysis done by the Texas PUC and other state regulatory agencies as it considers modifications to CPNI regulation.

Respectfully submitted,

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March 30, 2006

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Paul Hudson  
Chairman

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Julie Caruthers Parsley  
Commissioner

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Commissioner

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